

**VOLUNTARY CLEANUP CONTRACT
05-5628-NRP**

**IN THE MATTER OF
FORMER BRITE CLEANERS, RICHLAND COUNTY
and
GRAHAM & CONNER, LLC**

This Contract is entered into by the South Carolina Department of Health and Environmental Control and Graham & Conner, LLC, pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710, et seq. (2005), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C §§ 9601, et seq., and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200, with respect to the property located at the corner of Bush River Road and Colonial Life Boulevard with addresses at 422 Bush River Road and 1441 Colonial Life Boulevard, Columbia, South Carolina and identified as Tax Map Number R07307-04-04. The Property includes 0.942 acres and is bounded generally by commercial properties to the north, west, and east, and undeveloped wooded land to the south. The terms and conditions of this Contract shall be consistent with the "Information and Certification" submitted October 26, 2005 by Graham & Conner, LLC, which is incorporated into this Contract and attached as Appendix A.

1. Unless otherwise expressly provided, terms used in this Contract shall have the meaning assigned to them in CERCLA, including any amendments, or in the regulations promulgated thereunder.

- A. "GC" shall mean Graham & Conner, LLC.
- B. "Bona Fide Prospective Purchaser" shall mean a person, or a tenant of that person, who acquires ownership of a facility after the date of enactment of the Brownfields Amendments (January 11, 2002), and by a preponderance of the evidence establishes the following:
 - a. Disposal at the facility occurred prior to acquisition;

- b. The person made all appropriate inquiry into previous ownership and uses of the facility in accordance with generally accepted practices and in accordance with the new standards contained in CERCLA Section 101(35)(B);
- c. The person provides all legally required notices with respect to the hazardous substances found at the facility;
- d. The person exercises “appropriate care” with respect to the hazardous substances found at the facility by taking “reasonable steps” to:
 - i. Stop any continuing releases;
 - ii. Prevent any threatened future release;
and
 - iii. Prevent or limit human, environmental or natural resource exposure to any previously released hazardous substance;
- e. The person provides full cooperation and access to the facility to those authorized to conduct response actions;
- f. The person is in compliance with any land use restrictions and does not impede the effectiveness or integrity of any institutional control;
- g. The person complies with any information request or administrative subpoena under CERCLA; and
- h. The person is not potentially liable for response costs at the facility or “affiliated” with any such person through:
 - i. Direct or indirect familial relationship, or
 - ii. Any contractual, corporate or financial relationship (excluding relationships created by instruments conveying or

financing title or by contracts for sale of goods and services).

- C. "Contract" shall mean this Voluntary Cleanup Contract.
- D. "Department" shall mean the South Carolina Department of Health and Environmental Control.
- E. "Existing Contamination" shall mean any hazardous substances, pollutants or contaminants (as defined herein), present or existing on or under the Site as of the execution date of this Contract.
- F. "Hazardous Substance" means (A) any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act [33 U.S.C. 1321(b)(2)(A)], (B) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of this title, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act [42 U.S.C. 6921] (but not including any waste the regulation of which under the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.] has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act [33 U.S.C. 1317(a)], (E) any hazardous air pollutant listed under section 112 of the Clean Air Act [42 U.S.C. 7412], and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act [15 U.S.C. 2606]. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).
- G. "Non-Responsible Party" shall mean any party which is neither:

- a. A responsible party at the time the voluntary cleanup contract is signed, nor
 - b. A parent, subsidiary of, or successor to a responsible party. Non-Responsible Parties may include lenders, economic development agencies, fiduciaries, trustees, executors, administrators, custodians, and subsequent holders of a security interest.
 - c. "Oversight Costs" shall mean those costs, both direct and indirect, incurred by the Department in implementing the Voluntary Cleanup Program as related to this Contract and any future amendments thereto.
- H. "Pollutant or Contaminant" includes, but is not limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in organisms or their offspring; "contaminant" does not include petroleum, including crude oil or any fraction of crude oil, which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) of CERCLA, Section 101, 42 U.S.C. Section 9601, et seq. and does not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality or mixtures of natural gas and such synthetic gas.
- I. "Property" shall mean the 0.942 acres identified on Tax Map R07304-04-04 of the Site that is subject to ownership, prospective ownership, or possessory or contractual interest of a Responsible Party or a Non-Responsible Party.

- J. "Response Action" shall mean any assessment, cleanup, inspection, or closure of a site as necessary to remedy actual or potential damage to public health, public welfare, or the environment.
- K. "Responsible Party" shall mean:
- a. The owner and operator of a vessel, as defined in CERCLA Section 101 (28), or a facility;
 - b. Any person who, at the time of disposal of any hazardous substance, owned or operated any facility at which such hazardous substances were disposed of;
 - c. Any person who, by contract, settlement, or otherwise, arranged for disposal or treatment or arranged with a transporter for transport for disposal or treatment of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by such a party or entity and containing such hazardous substances; and/or
 - d. Any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels, as defined in CERCLA Section 101 (38), or sites selected by such person from which there is a release, or a threatened release that causes the incurrence of response costs, of a hazardous substance.
- L. "The Site" shall mean the facility located at the corner of Bush River Road and Colonial Life Boulevard with addresses at 422 Bush River Road and 1441 Colonial Life Boulevard, Columbia, South Carolina and all areas where a contaminant has been released, deposited, stored, disposed of, placed, or otherwise comes to be located; "Site" does not include any consumer product in consumer use or any

vessel, as defined in CERCLA Section 101 (28).

- M. "Voluntary Cleanup" shall mean a response action taken under and in compliance with the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710, et seq. (2002).
- N. "Work Plan" shall mean the plan for additional response actions to be conducted at the Property as described in Paragraph 5 of this Contract.

2. Based on the information known by and/or provided to the Department, the following findings are asserted for purposes of this Contract:

- A. Historic aerial photographs indicate the Property was undeveloped land from 1943 to the early 1980's. The surrounding land appeared to have been primarily agricultural. In the early 1980's, the subject Property, along with surrounding properties, was developed for retail and commercial use. Specifically, the Property was developed with retail and restaurant structures. The Property was purchased by Robardi, Inc. in 1984 from 422 Bush River Road Partner in approximately 1988.
- B. The Property is currently developed with a four-store strip mall, and a S & K Mens store. The northernmost unit of the strip mall has been used as a dry cleaner facility identified as Brite Cleaners. Brite Cleaners operated as a full service dry-cleaning business from approximately 2000 until June 2005 under Akram Massey, who leased the Property from Robardi, Inc. Prior to Brite Cleaners, Lexington Dry Cleaners operated a pick-up and drop-off dry facility at this location. Additionally, McClean's Cleaners reportedly operated a dry-cleaning facility on the subject Property. The exact location and dates of operation of the McClean's Cleaners is unknown.
- C. A Phase I Environmental Site Assessment (Phase I) was conducted

by ARM Environmental in August 2005. The Phase I noted the presence of seven (7) five-gallon containers filled with perchloroethylene, four (4) empty five-gallon perchloroethylene containers, two empty thirty-gallon containers of perchloroethylene, and approximately forty-five (45) used dry-cleaning filters – all located in the rear (western) portion of the Brite Cleaners facility. In addition, several unlabeled chemical containers, including two (2) filled thirty-gallon drums, one (1) filled five-gallon bucket, and various small chemical containers were noted to be located within the Brite Cleaners building. Laundering equipment used during dry-cleaning operations is still present in the building, and includes washers, dryers, and presses. The Phase I also noted leakage from a dry-cleaning machine in an overfill tray on the floor.

- D. Brite Cleaners is eligible, but currently not listed with the South Carolina Drycleaning Restoration Fund (“the Fund”). Should the Site become listed with the Fund, costs associated with assessment and/or remedial activities conducted by GC under this voluntary cleanup contract are not reimbursable.
- E. GC intends to lease the Property to commercial and retail tenants. Future use shall not include operation of a dry-cleaner or other facility that would use dry-cleaner solvents as part of their operation.

3. The terms and conditions of this Contract apply to and shall inure to the benefit of each signatory and its Non-Responsible Party lenders, parents, subsidiaries, successors and assigns, and upon any successor agency of the State of South Carolina that may have responsibility for and jurisdiction over the subject matter of this Contract.

4. GC is a South Carolina Limited Liability Company with its principal place of business located at 427 Vereen Road, Murrells Inlet, South Carolina. GC is a Non-Responsible

Party at the Site; it is not a parent, successor, or subsidiary of a Responsible Party at the Site; and it certifies that it is eligible to be a Bona Fide Prospective Purchaser for the Property. GC has had no previous involvement with the Site, including but not limited to any such activities that may have resulted in any Existing Contamination at the Site.

5. GC agrees to submit to the Department for review and written approval within thirty (30) days of the execution date of this Contract a Work Plan for the Property that is consistent with the technical intent of the National Contingency Plan. The Work Plan and all associated reports shall be prepared in accordance with industry standards and endorsed by a Professional Engineer (P.E.) and/or Professional Geologist (P.G.) duly-licensed in South Carolina and shall set forth methods and schedules for accomplishing the following tasks:

- A. Prior to conducting site assessment activities described below, all drums, tanks, filters and other items or containers that are potential sources of hazardous substances present on the Property shall be characterized and removed from the Property for proper use or disposal in accordance with applicable regulations. Records documenting characterization and disposal of these items shall be provided to the Department within 30 (thirty) days of removal. Should any release of hazardous substances occur or be identified during removal of these items, GC shall immediately notify the Department and shall assess the impact of the release as part of the assessment activities performed at the Property.
- B. GC shall conduct assessment of surface soil (0-1 feet below ground surface) and subsurface soil (greater than two feet below ground surface) to characterize the nature and extent of any release of hazardous substances to soil on the Property. Soil samples shall be collected from potential contaminant source areas to identify the

presence of a release. Additional samples may be required to characterize the extent of a release. Soil sample locations shall be proposed in the Work Plan based on site history and current conditions regarding potential contaminant sources. Analytical parameters shall be proposed in the Work Plan based on the former activities at or near each location and as specified below. Soil samples shall be proposed at appropriate depths and locations to detect contaminant releases in the immediate vicinity of potential contaminant sources including:

Former Brite Cleaners: Soil samples shall be collected from beneath potential sources of a release of dry cleaner solvent within the former Brite Cleaners building including beneath the used filter storage area, drum and container storage areas, and beneath dry-cleaner units. Soil samples shall be collected at five-foot intervals to the top of the water table for field screening to identify samples with greatest indication of contaminant impact and to select samples for laboratory analysis. At least one sample from each borehole shall be selected for laboratory analysis. Laboratory analysis shall include Target Analyte List Volatile Organic Compounds and Semivolatile Organic Compounds.

- C. Soil quality results shall be compared to EPA Region IX Preliminary Remediation Goals (PRGs) for residential and industrial exposure and EPA Region IX Soil Screening Levels for Contaminant Migration to Groundwater (SSLs) with a dilution/attenuation factor (DAF) of 20.
- D. GC shall assess groundwater quality and flow direction across the Property to determine background groundwater quality and the lateral

and vertical extent of any hazardous substances present in groundwater on the Property. Assessment shall include installation and sampling of groundwater monitoring wells at approximately five locations across the property, some of which shall include assessment of groundwater quality at multiple depths. The Work Plan shall propose specific locations and construction of monitoring wells designed to detect any release of hazardous substances based on site history and present conditions regarding potential contaminant sources. Analytical parameters shall be proposed in the Work Plan based on the former activities at or near each location and as specified below. Groundwater quality shall be assessed across the Property and at each of the following identified potential contaminant source areas:

Former Brite Cleaners: Groundwater quality shall be assessed at locations within the Former Brite Cleaners building in the vicinity of potential contaminant source areas including used filter storage areas, drum and container storage areas, and beneath dry-cleaner units. Assessment shall include field screening to evaluate groundwater quality at multiple depths targeting zones immediately above lithologic units with low permeability. Based on field screening results, selected samples, at least one from each monitoring well, shall be selected for laboratory analysis. Laboratory analysis shall include Target Analyte List Volatile Organic Compounds and Semivolatile Organic Compounds.

- E. Groundwater quality results shall be compared to Maximum Contaminant Levels set forth in R.61-58, State Primary Drinking Water Regulations.
- F. GC shall measure soil gas at approximately five locations on the

property to evaluate potential impacts to indoor air. The soil gas samples shall be collected from soil within three feet below the building foundations of the former Brite Cleaner unit as well as adjacent units. Soil gas shall be analyzed for site related constituents by appropriate methods capable of detecting soil gas concentrations at screening levels indicative of a 10^{-6} risk for shallow soil gas samples (attenuation factor of 0.1) as identified in Table 2 of EPA OSWER Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils (Subsurface Vapor Intrusion Guidance), <http://www.epa.gov/correctiveaction/eis/vapor.htm>.

- G. Based on the results of the initial assessment, additional assessment may be required to determine the extent of contamination on the Property.
- H. Based on the results of the assessment activities specified above, NRP shall agree to take reasonable steps, approved by the Department, to address identified contamination in a manner that is protective of human health and the environment and appropriate for the intended future use of the Property. Reasonable steps shall include appropriate measures to address the presence of hazardous substances (1) in excess of appropriate human-health risk-based standards via all potential routes of exposure; and (2) in excess of appropriate standards for contaminant migration to groundwater. At a minimum, reasonable steps shall be taken to address the following conditions:
 - a. Should the results of assessment activities indicate the presence of a Non-Aqueous Phase Liquids (NAPL) on the Property, GC agrees to take reasonable steps, approved by the Department, to mitigate this continuing source of

groundwater contamination. Please note that solvent concentrations at 1% of their solubility limit may indicate the presence of NAPL.

- b. Based on the results of groundwater assessment, implementation of a Department approved groundwater monitoring program may be required. If a groundwater monitoring program is not required and there are no further needs for any installed permanent groundwater monitoring wells, GC shall abandon the monitoring wells in accordance with R.61-71 of the South Carolina Well Standards and Regulations, dated April 26, 2002.
- c. Should the Department determine that soil gas concentrations exceed risk based screening levels identified based on EPA OSWER Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils (Subsurface Vapor Intrusion Guidance), <http://www.epa.gov/correctiveaction/eis/vapor.htm>, GC shall take reasonable steps to ensure acceptable indoor air quality for the intended future use of the property in accordance with a Department approved plan.

6. The Work Plan shall include the names, addresses, and telephone numbers of the consulting firm, the South Carolina certified analytical laboratory, and GC's contact person for matters relating to this Contract. GC will notify the Department in writing of changes in the contractor or laboratory. Attached to the Work Plan but under separate cover shall also be a Health and Safety Plan that is consistent with Occupational Safety and Health Administration regulations. The Department will review the Work Plan and will notify GC in writing of any deficiencies in the Work Plan, and GC shall respond in writing within thirty (30) days to the Department's comments.

7. Within thirty days of Work Plan approval and quarterly thereafter, GC shall submit to the Department's project manager a written progress report that must include the following: (a) actions taken under this Contract during the previous reporting period; (b) actions scheduled to be taken in the next reporting period; (c) sampling, test results, and any other data, in summary form, generated during the previous reporting period, whether generated pursuant to this Contract or not; and (d) a description of any environmental problems experienced during the previous reporting period and the actions taken to resolve them.

8. As provided for by S.C. Code Ann. § 44-56-200 and S.C. Code Ann. § 44-56-750 (D) (2005), GC shall, on a quarterly basis, reimburse the Department for oversight costs of activities required under this Contract. Oversight costs include but are not limited to the direct and indirect costs of negotiating the terms of this Contract, reviewing Work Plans and reports, supervising corresponding work, and public participation. Payments will be due within thirty (30) days of receipt of the Department's invoice.

9. Two (2) years after the execution date of this Contract, GC shall provide the Department with the following information concerning the new operation at the Property: the number of jobs created; the amount of increase to the tax base; the amount of soil removed or remediated, if necessary; cost of all environmental work; total investment in the site; and any other information that demonstrates that the activities performed pursuant to this Contract have been beneficial to the State, the community, and the Department.

10. Subject to the provisions of Paragraph 18 of this Contract, nothing in this Contract is intended to be, or shall be construed as, a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or equity, that the Department may have against any person, firm, corporation, potentially responsible party, or other entity not a signatory of this Contract.

11. Nothing in this Contract is intended to limit the right of the Department to undertake future response actions at the Site or to seek to compel parties other than GC to perform or

pay for response actions at the Site. Nothing in this Contract shall in any way restrict or limit the nature or scope of response actions that may be taken or be required by the Department in exercising its authority under State and Federal law. GC acknowledges that it is acquiring property where response actions may be required.

12. Upon written notification to the Department, the rights and obligations of this Contract shall be assignable to a new purchaser, lessee, parent, subsidiary, or successor, but only to the extent that the new purchaser, lessee, parent, subsidiary, or successor has never been a Responsible Party at the Site.

13. The Department, its authorized officers, employees, representatives, and all other persons performing response actions will not be denied access to the Property during normal business hours or at any time work under this Contract is being performed or during any environmental emergency or imminent threat situation, as determined by the Department (or as allowed by applicable law). GC shall ensure that a copy of this Contract is provided to any current lessee or sublessee on the Property as of the execution date of this Contract. GC shall also ensure that any subsequent leases, subleases, assignments or transfers of the Property occurring during GC's ownership of the Property are consistent with this Paragraph.

14. GC shall preserve all drums, bottles, labels, business and operating records, contracts, Site studies, investigations, and other physical or written materials relating to the Site that may provide environmental information, evidence of a Potentially Responsible Party's involvement at the Site, or may lead to the discovery of other areas of contamination at the Site. Prior to destruction of any such items, GC shall notify the Department of their location and provide the Department with an opportunity to inspect any materials or copy any documents at the Department's expense.

15. GC shall inform the Department at least five (5) working days in advance of all field activities pursuant to this Contract and shall allow the Department and its authorized

representatives, if so desired, to take duplicates of any samples collected by GC pursuant to this Contract.

16. The Department and GC recognize that public participation is an important component of the Voluntary Cleanup Contract in order to further public acceptance of the project. The Department and GC will undertake necessary steps to foster opportunities for the public to be aware of the project. Specific functions of each signatory party to the Contract are as follows:

- A. The Department will seek public comment in accordance with S.C. Code Ann. § 44-56-750 (2002) as outlined below:
 - a. Upon signature of this Contract by GC, the Department will provide notice for public participation by placing announcements describing the proposed Contract in newspaper(s) of general circulation within the affected community. A thirty-day period following the publication date of the announcement(s) will be provided for public comment and will precede the Department's scheduled date for execution of the Contract.
 - b. The Department may publicize the proposed Contract by any other means including, but not limited to, electronic mail, news releases, community flyers, and door-to-door canvassing. Such actions may be done solely at the Department's discretion.
 - c. A public informational meeting will be held if requested by twelve residents of South Carolina or an organization representing twelve or more residents of South Carolina. At the Department's discretion, public informational meetings may be held in the nearby communities for any other reason prior to the Department executing the contract. A public meeting may be requested at any time during the thirty-day comment period. In the event that a public meeting is deemed necessary, the Department will provide approximately two weeks

advance notice of the meeting to the public and will extend the public comment period at least through the end of the day following the public meeting. The Department will not execute the contract during any public comment period. In addition, the Department may, at its discretion, conduct public meetings to inform the community about the site at any time after the contract is executed until the certificate of completion is issued.

- B. GC agrees to enhance the public knowledge of the site response activities by:
- a. Erecting a sign(s) at each entrance onto the reference property from any public road, thoroughfare, navigable waterway, or other location routinely accessible by the public. The sign(s) shall be erected not later than one day after publication of any public announcement about the site placed by the Department in any newspaper of general circulation in the community.
 - b. The sign will state "Voluntary Cleanup Project by Graham & Conner, LLC under Voluntary Cleanup Contract 05-5628-NRP with the South Carolina Department of Health and Environmental Control." The sign shall provide a brief description of the scope of activities under the NRP contract and contact information for a representative of GC and the Department's toll free number, 866-576-3432. All required lettering on the sign must be of sufficient size to be legible with unaided normal eyesight from the point where the public will normally pass by the site without intruding onto the subject property.
 - c. Within 10 days after erecting the sign, GC shall furnish to the Department photographs of the sign along with a site location drawing showing the sign location(s). Photograph(s) of the sign(s) shall be taken from no closer than the edge of the publicly-accessible road, waterway, etc. and should include an appropriately sized scale reference so that Department may determine the size of the sign and effectiveness of the lettering. GC agrees to revise the sign if the

Department determines the sign is not legible.

- d. GC must maintain the sign(s) in legible conditions and visible locations throughout the duration of the contract period until a certificate of completion is issued on the site.
- e. In the event that any sign must be removed to accommodate building or grading activities, GC shall replace the sign within two days. If the sign cannot be restored to the original location, GC may relocate it to another location meeting the conditions specified above.

- C. All costs incurred by the Department for public participation [e.g., public notice(s), building and equipment rental(s) for public meetings, etc.] will be paid by GC.

17. The Department and GC agree that the following are entitled to protection from contribution claims as provided by CERCLA § 113(f)(2), 42 U.S.C. §§ 9613(f)(2); S.C. Code Ann. § 44-56-200 and S.C. Code Ann. § 44-56-750 (2005): GC, its Non-Responsible Party lenders, parents, subsidiaries, successors, and assigns. A thirty (30) day comment period for contribution protection commences upon notice of this Contract to Responsible Parties at the Site as identified by the Department through a reasonable search effort.

18. The Department and GC agree that the following are entitled to protection from third-party claims for equitable relief or damages relating to "existing contamination" at the Site, as provided by S.C. Code Ann. § 44-56-750 (2005): GC, its Non-Responsible Party lenders, signatories, parents, subsidiaries and successors. This limitation on liability does not apply to any contamination caused by GC or its lenders, signatories, parents, subsidiaries, or successors. Furthermore, this limitation of liability is effective on the date this contract is executed by the Department, but will be automatically withdrawn if this contract is lawfully terminated by either party.

19. Upon successful completion of the terms of this Contract as referenced in Paragraph 5 above, GC shall submit to the Department a written notice of completion [OR modify in the case of long-term monitoring, etc. to give protection earlier]. Once the Department acknowledges satisfactory completion of the Contract terms, the Department, under its authority to enforce CERCLA, 42 U.S.C. §§ 9601, et seq., pursuant to the HWMA, S.C. Code Ann. § 44-56-200, will give GC a Certificate of Completion that provides a covenant not to sue GC, its Non-Responsible Party lenders, parents, subsidiaries, successors, and assigns for Existing Contamination, except for releases and consequences that GC causes.

In consideration of this liability protection from the Department, GC agrees not to assert any claims or causes of action against the Department arising out of activities undertaken at the Site or to seek other costs, damages, or attorney's fees from the Department arising out of activities undertaken at the Site, except for those claims or causes of action resulting from the Department's intentional or grossly negligent acts or omissions.

20. If hazardous substances in excess of residential standards exist at the Property after GC has completed the actions required under this Contract, land use restrictions shall be defined in the Certificate of Completion and the Department shall enter into a restrictive covenant with GC. Upon the Department's approval of the items outlined therein, the restrictive covenant shall be signed by the Department and representatives of GC and witnessed, signed, and sealed by a notary public. GC shall file this restrictive covenant with the Register of Mesne Conveyance or Deeds in Richland County. The signed covenant shall be incorporated into this contract as an Appendix. With the approval of the Department, the restrictive covenant may be modified in the future if: (a) additional remedial activities are carried out which meet appropriate clean up standards at that time; (b) a significant change in law requiring remediation occurs; or (c) circumstances change such that the restrictive covenant would no longer be applicable.

21. GC specifically denies any responsibility for response costs or damages resulting from Existing Contamination and does not, by signing this Contract, waive any rights that it may have to assert any claims in law or equity against any other person, company, or entity

with respect to the Site. However, GC is responsible and liable for any and all contamination it causes or contributes to the Site. Should environmental contamination neither previously-identified nor identified during the performance of response actions required under this Contract be discovered at the Site after the execution date of the Certificate of Completion, the burden is on GC to demonstrate to the Department's satisfaction that the contamination was not caused by GC.

22. GC and the Department each reserve the right to unilaterally terminate this Contract. Termination may be accomplished by giving a thirty (30) day advance written notice of the election to terminate this Contract to the other party. Should GC elect to terminate, it must submit to the Department all data generated pursuant to this Contract, and certify to the Department's satisfaction that no environmental or physical hazards exist at the Site as a result of GC's actions. The Department may terminate this Contract only for cause, which may include but is not limited to the following: (a) events or circumstances at the Property that are inconsistent with the terms and conditions of this Contract; (b) failure to complete the terms of this Contract; or (c) additional contamination of the Site caused by GC.

23. If GC provides the Department with false or incomplete information, or if GC's business activities on the Property or use of the Property change such that they are inconsistent with the terms and conditions of this Contract, then the releases/contribution protection extended to GC, its Non-Responsible Party lenders, parents, subsidiaries, successors, and assigns, shall become null and void.

24. GC acknowledges that the Department will not grant or will revoke liability protection if GC acquires the Contract or a Certificate of Completion by fraud, misrepresentation, knowing failure to disclose material information, or failure to satisfactorily complete the terms of this Contract.

25. All correspondence which may or are required or permitted to be given by either party to the other hereunder shall be in writing and deemed sufficiently given if delivered by

(i) regular U.S. mail, (ii) certified or registered mail, postage prepaid, return receipt requested, (iii) by nationally recognized overnight delivery service company or (iv) by telephone facsimile addressed to the other party at the address shown below or at such place or to such agent as the parties may from time to time designate in writing.

The Department (including five (5) copies of all work plans and reports):

Ms. Angela Gorman
Bureau of Land and Waste Management
2600 Bull Street
Columbia, South Carolina 29201

GC

Carey E. Graham
c/o Landsouth Partners
5001 North Kings Highway
Myrtle Beach, South Carolina 29577

Any notice given hereunder shall be deemed delivered when, if sent by mail, the return receipt is signed or refusal to accept the notice is noted thereon or, if sent by recognized overnight courier when the notice is actually delivered or refused as reflected in the courier company's delivery records or if sent via facsimile upon receipt of confirmation by the sender that the facsimile has been received.

**THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL
CONTROL**

BY: _____
Robert W. King, Jr., P.E.
Deputy Commissioner
Environmental Quality Control

DATE: _____
Columbia, South Carolina

Patrick T. (Pat) Walker, Chief
Bureau of Land and Waste Management

DATE: _____

Approved by Legal Office

DATE: _____

GRAHAM & CONNER, LLC

Signature

DATE: _____

Printed Name and Title

DATE: _____

APPENDIX A